

Chronic Kidney Disease (CKD)

Larry Lehrner, PhD, MD, FACP
Kidney Specialists of Southern Nevada



NV ACP Meeting 16 Jan 2010

Disclosures:

Board relationships- DoctorsXL

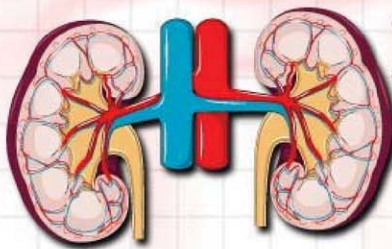
Research support- Amgen, Fibrogen, Genzyme, Affymax

Consulting- Healthinsight, Pharmerica

Speakers' Bureau- Amgen, Advanced Health Media

Income relationships- dialysis unit JVs with DaVita

Corp stock > 50K- Roche, Siemens





ANNUAL REPORT

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BERNSTEIN, POKROY & LEHRNER, LTD.

[0](#)

This information is current as of August 2, 2011.

Entity Name: [BERNSTEIN, POKROY & LEHRNER, LTD.](#)

Status: Active

File Date: 04/28/1976

Entity Type: Domestic Professional Corporation

File Number: [C1579-1976](#)

Annual List Due: [04/30/2012](#)

List Fees Due: \$125.00 (Estimate)

Entity Age: 35 Years, 4 Months

Registered Agent: Hutchison & Steffen, Llc

10080 W Alta Drive Ste 200
Las Vegas, NV 89145

No Par Shares: 2,500

Capital Amount: \$0.00

President

Lawrence Lehrner M.d.
500 South Rancho Drive
Suite #12
Las Vegas, NV 89106

Secretary

Marvin J Bernstein M.d.
500 South Rancho Drive
Suite #12
Las Vegas, NV 89106

Treasurer

Neville Pokroy, M.d.
500 South Rancho Drive
Suite #12
Las Vegas, NV 89106

Director

Lawrence Lehrner, M.d.
500 South Rancho Drive, Ste. #12
Las Vegas, NV 89106



KIDNEY SPECIALISTS
OF SOUTHERN NEVADA

(702) 877-1887

[Office Locations](#)
[Dialysis Locations](#)



Office Locations

Central-Rancho

Primary doctors at this location: Dr. Adekile, Dr. Bernstein, Dr. Botla, Dr. Khanna, Dr. Lehmer, Dr. Lim, Dr. Robertson, Dr. Shah, Dr. Singh

500 South Rancho Drive
Suite 12
Las Vegas, Nevada 89106
Phone: 702-877-1887
Fax: 702-877-4536

Northwest-Centennial Hills

Primary doctor at this location: Dr. Boldur, Dr. Mirfendereski
8775 Deer Springs Way
Las Vegas, Nevada 89149
Phone: 702-877-1887
Fax: 702-877-4536

South-Henderson/St. Rose

Primary doctor at this location: Dr. Merrell, Dr. Ranai, Dr. Sowers
2865 Siena Heights Drive
Suite 140
Henderson, Nevada 89052
Phone: 702-877-1887
Fax: 702-877-4536

Pahrump-Nye County

Primary doctor at this location: Dr. Boldur, Dr. Leiserowitz, Dr. Mirfendereski
330 South Lola Lane Suite A
Pahrump, Nevada 89048
Phone: 702-877-1887
Fax: 702-877-4536

South West-Southern Hills

Primary doctor at this location: Dr. Leiserowitz
9280 West Sunset Road
Suite 110
Las Vegas, Nevada 89148
Phone: 702-877-1887
Fax: 702-877-4536

West-Summerlin

Primary doctors at this location: Dr. Chu, Dr. Pokroy, Dr. Sela
653 Town Center Drive
Building 2, Suite 70
Las Vegas, Nevada 89144
Phone: 702-877-1887
Fax: 702-877-4536

Vascular Access Center

Doctors at this location: Dr. Botla, Dr. Ranai, Dr. Qazi
3150 West Charleston Blvd.
Las Vegas, NV 89102
[Click here for a pdf of directions \(pdf\)](#)
Phone: 702-258-0078
Fax: 702-870-0731

 [VAC directions](#)



KIDNEY SPECIALISTS
OF SOUTHERN NEVADA

(702) 877-1887

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Dialysis Locations

[Anthem Village](#)

2530 Anthem Village Dr
Henderson, NV 89052-5548
Phone: (702) 614-0590
Fax: (702) 614-7419

[Centennial](#)

8775 Deer Springs Way
Las Vegas, NV 89149
Phone: (702) 395-2488
Fax: (702) 645-5007

[Five Star](#)

Las Vegas At Home
2400 Tech Center Dr
Las Vegas, NV 89128
Phone: (702) 869-3771
Fax: (702) 869-6366

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2881 Business Park Court
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Las Vegas, NV 89128
Phone: (702) 341-9551
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2300 McDaniel St
North Las Vegas, NV 89030-6318
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Fax: (702) 642-1558

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330 South Lola Lane
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Fax: (702) 795-1794

[Southern Hills](#)

9280 W Sunset Rd
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Fax: (702) 318-3196

[Summerlin](#)

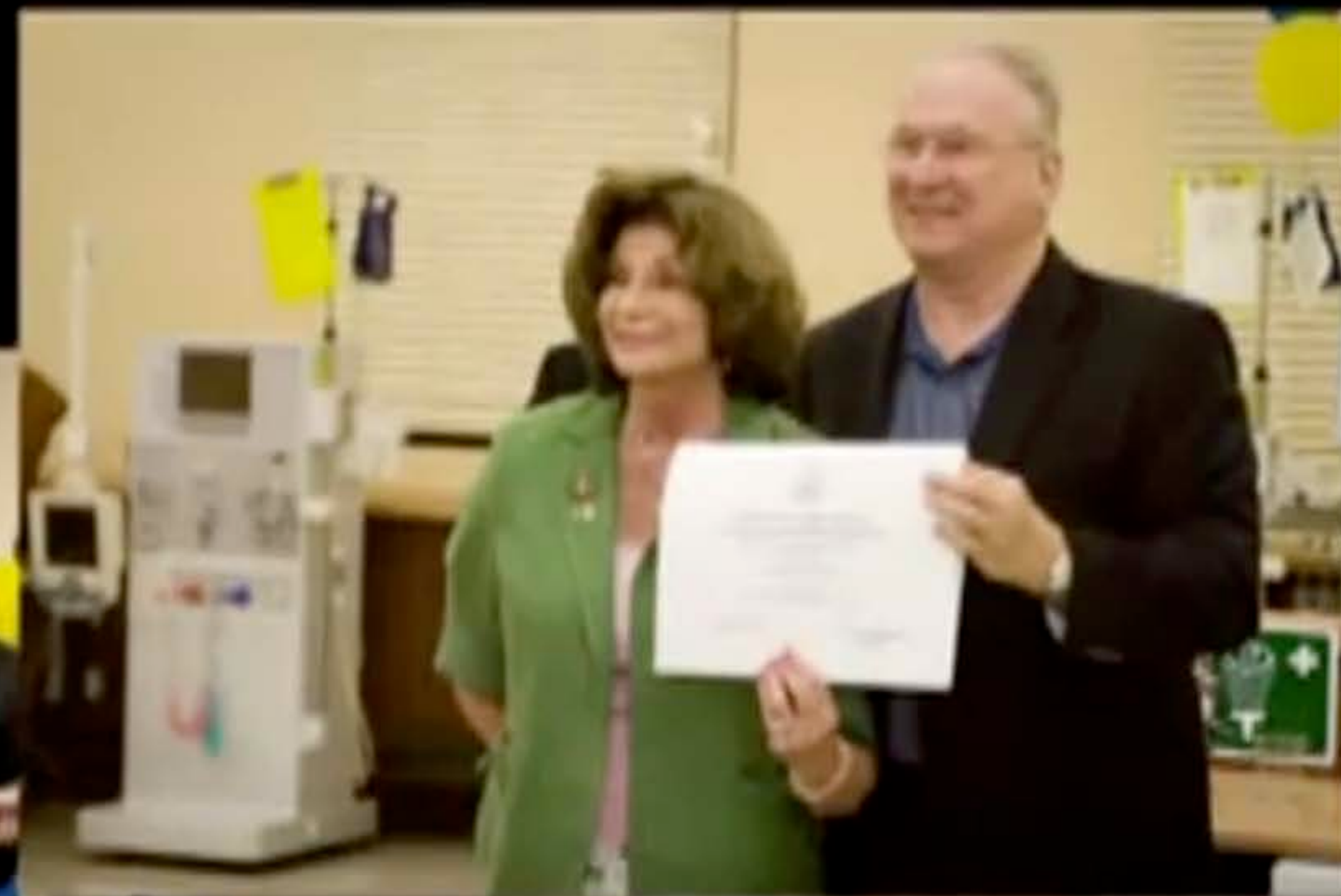
653 N Town Center Drive
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Fax: (702) 360-7806

[West Las Vegas](#)

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Fax: (702) 878-8292

CONTRIBUTIONS FROM DAVITA EMPLOYEES and POLITICAL ACTION COMMITTEE

<u>Name</u>	<u>City</u>	<u>State</u>	<u>Employer/Occupation</u>	<u>Date</u>	<u>Amount</u>
DaVita Inc			Political Action Committee	5/19/2003	\$ 2,000
DaVita Inc			Political Action Committee	4/10/2007	\$ 5,000
DaVita Inc			Political Action Committee	2/27/2008	\$ 3,000
DaVita Inc			Political Action Committee	5/11/2009	\$ 650
DaVita Inc			Political Action Committee	5/19/2009	\$ 850
Knittle, Nenita P. R.N., B.S.	Henderson	NV	DaVita/Regional Operations Manager	8/20/2009	\$ 500
Bianchessi, Franco	Upland	CA	DaVita/Vice President	8/24/2009	\$ 500
Fafoutis, Niki	San Pedro	CA	DaVita/Vice President	8/24/2009	\$ 500
Street, Josette	Las Vegas	NV	DaVita/Facility Administrator	8/24/2009	\$ 500
Wagoner, Linda	Hesperia	CA	DaVita/Regional Operations Manager	8/26/2009	\$ 500
DaVita Inc			Political Action Committee	8/27/2009	\$ 3,500
Limon, Gary T.	Claremont	CA	DaVita/Group VP Corp Development	9/6/2009	\$ 500
Seebold, Richard E.	Upland	CA	DaVita/Division Vice President	9/6/2009	\$ 1,000
Shea, Mike	Thousand Oaks	CA	DaVita/Vice President	9/6/2009	\$ 500
Kogod, Dennis	Irvine	CA	DaVita/Chief Operating Officer	9/8/2009	\$ 1,500
Caballes, Catherine	Tacoma	WA	DaVita/Vice President	1/22/2010	\$ 550
DaVita Inc			Political Action Committee	6/15/2010	\$ 1,500
DaVita Inc			Political Action Committee	1/6/2011	\$ 5,000
Collard, Shaun	Saratoga	CA	DaVita/Heath Care Executive	1/26/2011	\$ 1,000
Seay, Henry W. III	Santa Monica	CA	DaVita/Vice President of Finance	1/31/2011	\$ 1,000
Nissenson, Allen	Los Angeles	CA	DaVita/Physician	1/31/2011	\$ 1,000
Golomb, Joshua	San Bruno	CA	Davita/Vice President	2/1/2011	\$ 500
Perraud, Robert	Cumming	GA	Davita/Vice President	2/1/2011	\$ 1,000
Mazak, Mark E.	Mc Lean	VA	DaVita/Vice President	2/2/2011	\$ 500
Lee, Jung	Pasadena	CA	DaVita/Vice President	2/3/2011	\$ 500
Knittle, Nenita P. R.N., B.S.	Henderson	NV	DaVita/Regional Operations Manager	2/3/2011	\$ 600
Skrajewski, Dennis	Downingtown	PA	DaVita/Heath Care Executive	2/3/2011	\$ 500
Shea, Mike	Thousand Oaks	CA	DaVita/Vice President	2/3/2011	\$ 1,000
Randolph, Georgina	San Diego	CA	DaVita/Senior Vice President	2/3/2011	\$ 1,000
Gabriel, Anthony	El Segundo	CA	DaVita/Chief Information Officer	2/4/2011	\$ 750
Seebold, Richard E.	Upland	CA	DaVita/Division Vice President	2/4/2011	\$ 1,000
Parker, Bryan	Oakland	CA	DaVita/Vice President	2/4/2011	\$ 500
Myers, William	Denver	CO	DaVita/Health Care Manager	2/4/2011	\$ 250
Okezie, Ikenna	Dumfries	VA	DaVita/Health Services	2/5/2011	\$ 500
Kogod, Dennis	Irvine	CA	DaVita/Chief Operating Officer	2/8/2011	\$ 2,300
Kogod, Dennis	Irvine	CA	DaVita/Chief Operating Officer	2/8/2011	\$ 2,500
Choi, Charles Lee	Villanova	PA	DaVita/Division Vice President	2/9/2011	\$ 500
Limon, Gary T.	Claremont	CA	DaVita/Group VP Corp Development	2/14/2011	\$ 500
Greenwood, James Jr.	Briarcliff Manor	NY	DaVita/Vice President	2/14/2011	\$ 500
Borgen, Elaine	Englewood	CO	DaVita/Vice President	2/14/2011	\$ 1,000
Richardson, David	Westminister	CO	DaVita/Vice President	2/14/2011	\$ 500
Total				\$	47,450.0



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Political Action Committee

Introduction

RPA established RPA PAC in 2005 to help expand its advocacy and better position itself with lawmakers. Through the voluntary support of RPA members, RPA PAC helps elect candidates, regardless of party affiliation, who share RPA's concerns on major issues that affect nephrologists, nephrology practices, and kidney patients. RPA PAC facilitates the ability of RPA to nimbly respond to changes affecting nephrology practice that are the result of legislative or regulatory action.



Former RPA PAC Chair Farida Baig, Representative Shelley Berkley (D-NV), Steve Fadem, Representative John Sarbanes (D-MD), and Lance Sloan at the RPA PAC Reception, March 21, 2009 in Baltimore, MD.

Why is RPA PAC Important?

Without financial assistance, few political candidates can afford the cost of a federal campaign. The significant role of money in politics can be beneficial to groups and individuals seeking to get their concerns addressed by Congress, as donations to a candidate's campaign can raise the visibility of specific issues with that candidate and help secure their support once in office.

The best way to financially support a candidate is through a political action committee (PAC). In fact, PACs represent a direct method for RPA members to exercise their constitutional rights and thus are a critically important element in the federal and state electoral process. They consist of groups of people with similar interests and concerns that pool their resources to elect candidates to public office. This ensures their voices are heard in the political process and offers candidates additional campaign support in conjunction with individual and political party donations.

Through the work of the RPA PAC, RPA leaders and staff have met in small group settings with leaders at the highest echelons of the U.S. Senate and House of Representatives, as well as key legislators on the committees of jurisdiction for the Medicare program (the Senate Finance Committee, and the Ways and Means and Energy and Commerce Committees in the House). These interactions have raised the profile of nephrology as a subspecialty and established RPA as the leading public policy organization in the nephrology community.

How Does the RPA PAC Work?

Campaign laws have established limits on the amount of money a PAC can contribute to, as well as receive from, one individual in a given year. RPA PAC is qualified as a multi-candidate PAC which means it can give up to \$5,000 to a candidate committee per election (primary, general or special) and can also give up to \$5,000 annually to any other PAC. RPA members can contribute up to \$5,000 per year to RPA PAC, however contributions must be from personal funds and not from corporate or practice accounts. PACs are required to report on a regular basis their revenues and disbursements to the federal government. More information on PACs and federal election laws is available to the public on the [Federal Election Commission's \(FEC\) Web site](#).

Join RPA PAC Today!

We hope that you will consider supporting RPA PAC. With the swirl of activities surrounding health care reform being addressed by Congress, it is more important than ever that RPA continue to advocate for excellence in nephrology practice. Your contribution sends a message to legislators that the nephrology community is united and provides an opportunity to positively impact the election of candidates who recognize and address the issues of concern to nephrologists. [Join the RPA PAC now!](#)

Thank you for your support!

For more information on RPA PAC, please contact Rob Blaser at (301) 468-3515 or rblaser@renalmd.org



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Robert Provenzano, Senator Harry Reid (D-NV), Larry Lehrner, and Representative Shelley Berkley (D-NV)

Senator Reid's Consultation Rx: Participate or Perish

By Larry Lehmer, RPA PAC Chair

On 19 December the RPA PAC with only two weeks lead time organized a fundraising event for Senate Majority Leader Harry Reid's Searchlight Leadership Fund. We invited all of organized medicine to join us at the event. In addition to RPA PAC, PACs representing the following organizations attended the event: American Academy of Ophthalmology, American Psychiatric Association, American Academy of Otolaryngology, American College of Radiology, American College of Physicians, American College of Pathologists, American College of Surgeons and Physician Hospitals of America. The event raised approximately \$30,000. An added bonus was the attendance of Representative Shelley Berkley (aka for credit cards usage-Mrs. Larry Lehmer) who will become a member of the Ways and Means committee in the 110th Congress.



Robert Provenzano, Senator Harry Reid and Larry Lehmer

In general, Senator Reid is supportive of medicine's agenda. He stated that physicians should be paid a fair wage. He understands the frustration physicians feel with burdensome rules and regulations promulgated by insurance companies and Medicare. In fact he stated that he knows one of his high school classmate's became a doctor but recently left medicine to drive a taxi cab because he was so frustrated with bureaucratic red tape that interferes with patient care.

The Senator believes that all Americans should have health care insurance. He is well aware that uninsured patients use the most expensive medical facilities namely emergency rooms and that their cost of care is passed on to society in general through higher local taxes. He also recognizes that health insurers are a major problem. He stated that only two groups are exempt from antitrust regulation: insurance companies and major league baseball. Thus, insurance companies legally can compare payments to physicians and collude to reduce our fees but it is illegal for physicians to even discuss their fees with their peers.

However, the Senator does not believe that major healthcare reform can be accomplished by Congress alone. He believes that only when a president makes health care a top priority and works collaboratively with Congress can major reform of health care be accomplished.

His concluding comments were a call to arms for the medical profession. He stated that physicians are the least politically active group in American politics. He said that if physicians do not actively participate in the political process that the rest of the healthcare industry including insurance companies, drug companies, HMOs, hospitals, etc will continue to set the healthcare agenda and physicians will continue to be on the outside looking in. Finally, he stated that he knows that physician organizations have limited resources in comparison to the other players in the healthcare industry. He advised us to focus our involvement with the "money" committees- Senate Finance and House Ways and Means.

This event is a major milestone in the development of the RPA PAC. We have achieved recognition within the medical community and have established a positive relationship with the majority leader of the United States Senate.

To summarize the event I will describe it in terms that are familiar to all physicians- a consultation. Senator Reid is an expert in the field of politics. He did an H&P on a group of physicians. He reviewed 10 organ systems, evaluated data, made a diagnosis and developed a treatment plan. Senator Reid's prescription is simple: actively participate in the political process or watch our profession perish. As with all consultations the choice is ours- we can ignore his advice and watch our profession decline or we can accept his medicine and actively engage in the political process. The choice is yours. I have made mine- I am involved. Please join me and join (or re-join) the PAC today!

Complete the contribution form today!

Renal Physicians Association

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RPA Recognizes Corporate Patrons

The RPA Corporate Patrons Program is designed to augment the alliance between stakeholder industries and RPA, since corporate members of the nephrology community play an important role in optimizing patient outcomes. During the year, RPA leaders meet with representatives from Corporate Patrons participating companies

to discuss areas of mutual concern and interest. This informal dialogue benefits industry and the association. Potential donors should contact the RPA office to obtain additional information. Links to all of our Corporate Patrons' websites may be found at www.renalmd.org, on the bottom right side of the home page.

RPA is pleased to acknowledge the support provided by all of our Corporate Patrons in this issue of *RPA News*:

PLATINUM (\$100,000)

Abbott Renal Care

Amgen, Inc.

Baxter Healthcare

Centocor Ortho Biotech, Inc.

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BRONZE (\$10,000)

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Bard Peripheral Vascular, Inc.

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Pharmaceuticals, Inc.

Brandywine Medical
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Lifeline Vascular Access

Medcomp

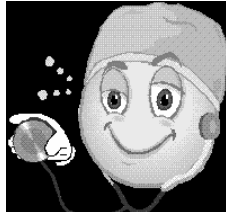
Mitsubishi Tanabi
Pharma America

NxStage Medical, Inc.

Redsense Medical, Inc.

Sanofi-aventis U.S.

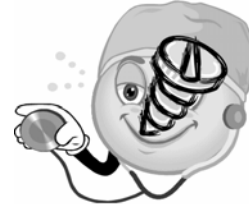
What is your emotion regarding
your practice of Nephrology?



Why is this doctor smiling?

OR
How to win friends and influence people and save your profession

Larry Lehmer, PhD, MD, FACP
RPA Board Member, Chair Government Affairs Committee,
Past Chairman RPA PAC
llehrmer@ksosn.com
No conflicts to report



Everyone **NOT** in this room



Everyone in this room



Life is Politics!

- Group practice interactions
- Hospital staffs
- Academic Departments
- RUC- surgeons vs. internists (our dialysis G codes being converted to CPT codes)
- NIH
- Marriage
- Congress, CMS, State Governments

Why do doctors engage in
politics in all aspects of their
lives EXCEPT for where it really
counts- Congress and CMS?!

Or

Why doctors have been screwed
for the past 20 years by our
government

Rate your satisfaction with



- | | |
|---|---|
| • ESA Regulations | x |
| • Medicare Allowables | x |
| • E&M Documentation | x |
| • PQRI | x |
| • Dialysis service for
undocumented patients | x |

What do all the issues on the prior slide have in common?

GOVERNMENT!

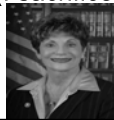
How do you influence our Government

- A. Piss and moan
- B. Bitch to other doctors in the doctors' lounge
- C. Hide your head in the sand
- D. Get involved

And the Correct Answer is: **D**

How you can get involved

- Donate money directly to a candidate
- Volunteer for a candidate's campaign
- Donate money to the RPA PAC
- Become a grass roots advocate
- Attend RPA Hill Day 23 June 2008
- Become a candidate and get elected
- Marry an elected official (I sacrifice my body for the good of the RPA)



Can prevent the destruction of your profession!
Get involved **NOW!**

Now for a testimonial of how personal involvement can yield results please welcome

Rebecca J. Schmidt, DO
RPA Board Member





Congressional Kidney Caucus

Co-Chairs: Congressman Tom Marino
and Congressman Jim McDermott

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Kidney Caucus Members

Tom Marino (R-PA), Co-Chair

Jim McDermott (D-WA), Co-Chair

John Fleming, M.D. (R-LA), Vice-Chair

Jesse Jackson Jr. (D-IL), Vice-Chair

Spencer Bachus (R-AL)

Bruce Braley (D-IA)

Tammy Baldwin (D-WI)

Xavier Becerra (D-CA)

Shelley Berkley (D-NV)

Gus Bilirakis (R-FL)

Madeleine Bordallo (D-GU)

Corrine Brown (D-FL)

Ken Calvert (R-CA)

Dave Camp (R-MI)

Shelley Capito (R-WV)

Michael Capuano (D-MA)

Bill Cassidy (R-LA)

Donna Christian-Christensen (D-VT)

William Lacy Clay (D-MO)

Steve Cohen (D-TN)



Capitol Kidney Connection

Celebrating World Kidney Day, 2010



Dialysis Patient Citizen Patient Ambassador Wyomia Timmons and People Like Us! Advocate, Sean Wagner, MPH at the Congressional Reception

World Kidney Day is an international outreach and awareness effort, celebrated by 100 countries to bring attention to the fact that kidney disease is common, harmful and treatable. On March 11th, the National Kidney Foundation (NKF) joined efforts with Dialysis Patient Citizens, the American Society of Nephrology, and the American Kidney Fund, drawing attention on Capitol Hill to the importance of chronic kidney disease (CKD) detection programs and education.

This year, members of the NKF's [Living Donor Council](#), [transAction Council](#), and Patient and Family Council executive committees represented the National Kidney Foundation. These "[People Like Us](#)" advocates educated Members of Congress by representing and building a community of support for individuals affected by CKD, donation and transplantation. "[People Like Us](#)" advocates and Dialysis Patient Citizen patient ambassadors went through an intensive Advocacy 101 training session, learning to be their own best advocate by sharing their personal stories with Members of Congress.



Special guests Grizz Chapman, from NBC's 30 Rock, and Lorenzo Alexander, from the Washington Redskins.

A congressional reception kicked off the event the evening before World Kidney Day. Special guests Grizz Chapman, from NBC's 30 Rock, and Lorenzo Alexander, from the Washington Redskins, discussed the importance of early detection programs and patient care. Several Members of Congress joined the festivities, making this the best attended World Kidney Day congressional reception to date.

Representatives Shelly Berkley (NV-01), Donna Christensen (D-VI), Elijah Cummings (MD-07), Mike Conaway (TX-11), Bob Etheridge (NC-02), Doug Lamborn (CO-05), Jesse Jackson, Jr. (IL-02), Vice Chair, Congressional Kidney Caucus, and Jim McDermott (WA-7), Co-Chair, Congressional Kidney Caucus, each pledged their commitment to making lives better. The congressional reception was a successful joint effort by the National Kidney Foundation, Dialysis Patient Citizens, the American Society of Nephrology and American Kidney Fund.

"[People Like Us](#)" advocates met with House and Senate offices to ask Members of Congress to join the Congressional Kidney Caucus, provide more research on the causes and best treatments, bring attention to health disparities, remove barriers to kidney transplants, and discuss insurance choice.



John Davis, National Kidney Foundation's Chief Executive Officer with Congressman Shelly Berkley (NV-01)

[Click here](#) to become an advocate or to learn more about the NKF's legislative priorities, register for the "[People Like Us](#)" Take Action Network.

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Advocacy and Government Relations Links

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- United States Congress
- People Like Us
- Links to Advocacy Resources
- Capitol Kidney Connections Archives
- Tell-a-friend

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IKKF Government Relations Office

1401 K Street, N.W.,
Suite 702
Washington, DC 20005
800.889.9559
takeaction@kidney.org
www.kidney.org/takeaction

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Bill Summary & Status
108th Congress (2003 - 2004)
H.R.4927
All Information

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H.R.4927
Latest Title: ESRD Modernization Act of 2004
Sponsor: [Rep Camp, Dave](#) [MI-4] (introduced 7/22/2004) [Cosponsors](#) (23)
Latest Major Action: 8/3/2004 Referred to House subcommittee. Status: Referred to the Subcommittee on Health.

Jump to: [Summary](#), [Major Actions](#), [All Actions](#), [Titles](#), [Cosponsors](#), [Committees](#), [Related Bill Details](#), [Amendments](#)

SUMMARY AS OF:
7/22/2004--Introduced.

ESRD Modernization Act of 2004 - Amends title XVIII (Medicare) of the Social Security Act, as amended by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, to provide for an annual update mechanism under the Medicare end stage renal disease (ESRD) program to adjust the payment rates for changes in input prices and inflation.

Directs the Secretary of Health and Human Services to establish demonstration projects to: (1) increase public awareness about the factors that lead to chronic kidney disease, and how to prevent and treat it; and (2) enhance chronic kidney disease surveillance systems and research.

Requires the Secretary to establish demonstration projects to enable individuals with ESRD to develop self-management skills.

Provides for Medicare coverage of kidney disease patient education services.

Directs the Secretary to: (1) establish demonstration projects to evaluate how blood flow monitoring affects care for Medicare beneficiaries with ESRD; (2) provide appropriate incentives to improve the home dialysis benefit; (3) arrange with the Institute of Medicine of the National Academy of Sciences to evaluate the barriers to increasing the number of individuals with ESRD who elect to receive home dialysis services under Medicare; (4) cover surgical procedures the full range of dialysis access procedures for Medicare-entitled individuals with ESRD; and (5) establish demonstration projects evaluating methods that improve the quality of care provided to Medicare beneficiaries with ESRD.

Directs the Comptroller General to study and report to Congress on the impact of the temporary codes for nephrologists' services applicable under the fee schedule for physicians' services.

MAJOR ACTIONS:

NONE

ALL ACTIONS:

7/22/2004:
Sponsor introductory remarks on measure. (CR [E1501-1502](#))
7/22/2004:
Referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.
7/22/2004:
Referred to House Energy and Commerce
7/22/2004:
Referred to the Subcommittee on Health.
7/22/2004:
Referred to House Ways and Means
8/3/2004:
Referred to the Subcommittee on Health.

TITLE(S): *(italics indicate a title for a portion of a bill)*

NONE

COSPONSORS(23), ALPHABETICAL [followed by Cosponsors withdrawn]: (Sort: [by date](#))

[Rep Baldwin, Tammy](#) [WI-2] - 9/14/2004
[Rep Berkley, Shelley](#) [NV-1] - 9/14/2004
[Rep Bono Mack, Mary](#) [CA-45] - 10/5/2004
[Rep Brown, Henry E., Jr.](#) [SC-1] - 11/19/2004
[Rep Davis, Jo Ann](#) [VA-1] - 10/5/2004
[Rep Dicks, Norman D.](#) [WA-6] - 10/7/2004
[Rep Doggett, Lloyd](#) [TX-10] - 9/9/2004
[Rep English, Phil](#) [PA-3] - 7/22/2004
[Rep Green, Gene](#) [TX-29] - 9/9/2004
[Rep Inslee, Jay](#) [WA-1] - 9/30/2004
[Rep Jefferson, William J.](#) [LA-2] - 7/22/2004
[Rep Larsen, Rick](#) [WA-2] - 10/8/2004
[Rep Lofgren, Zoe](#) [CA-16] - 9/30/2004
[Rep McDermott, Jim](#) [WA-7] - 9/29/2004
[Rep Moore, Dennis](#) [KS-3] - 10/7/2004
[Rep Neal, Richard E.](#) [MA-2] - 7/22/2004
[Rep Nethercutt, George R., Jr.](#) [WA-5] - 9/14/2004
[Rep Pickering, Charles W. "Chip"](#) [MS-3] - 10/5/2004
[Rep Pomeroy, Earl](#) [ND] - 7/22/2004
[Rep Price, David E.](#) [NC-4] - 9/21/2004

May 31, 2007

Top 10 Concerns Regarding the Potential Bundling of ESRD Services and Its Impact on Patients

The Renal Support Network strives to help patients with chronic kidney disease (CKD) improve their employability and develop their personal coping skills and special talents by educating and empowering them, as well as their family members, to take control of the course and management of the disease.

People who have CKD are very grateful for the ESRD program and how it has helped both prolong our lives and improve the quality of our lives. Based on the current national discussion on changing the dialysis payment process in favor of a bundling approach, we are concerned that revisions in the reimbursement policy may unintentionally lead to a decrease in patient quality of care or quality of life. We would like to bring up a few points to consider to ensure that the new policy remains focused on the patient:

1. Ensure that the new policy does not result in the disappearance of patient care services that dialysis facilities currently provide.
2. Ensure that all people who have ESRD have access to quality care, as jointly defined by medical professionals and patients.
3. Ensure that any newly implemented policies include provisions for ongoing and timely modifications in the definitions of quality of care and quality of life based on current data and the newest therapies.
4. Ensure that all patients continue to receive education on the differences between modality options (including home dialysis and kidney transplantation).
5. Include provisions that will continue to allow patients real choices on where they dialyze.
6. Include provisions and a financial model that will allow both small and large providers to remain viable, thereby providing patients with true choices on where to dialyze.

An illness is too demanding when you don't have hope!

A SUDDEN SURGE IN INDUSTRY DONATIONS

<u>DATE</u>	<u>DONOR</u>	<u>AMOUNT</u>
02/18/2008	Amgen Inc	\$1,000
02/26/2008	Kidney Care Partners	\$2,000
02/27/2008	DaVita Inc	\$3,000
02/28/2008	Renal Leadership Council	\$1,000
02/28/2008	Renal Physicians Assn	\$1,000
03/26/2008	Fresenius Medical Care North America	\$3,000

SHELLEY BERKLEY
1ST DISTRICT, NEVADA

405 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-5965
FAX: (202) 225-3119
shelley.berkley@mail.house.gov

2340 PASEO DEL PRADO
SUITE D106
LAS VEGAS, NEVADA 89102
(702) 220-9823
FAX: (702) 220-9841
www.berkley.house.gov

Congress of the United States
House of Representatives
Washington, DC 20515-2801

COMMITTEES:
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DISABILITY AND MEMORIAL AFFAIRS
CAUCUSES:
CO-CHAIR, GAMING CAUCUS
CO-CHAIR, STOP DUI CAUCUS
CO-CHAIR, TAIWAN CAUCUS

February 28, 2008

Dear Congressman Stark,

I am writing to express my concerns with current proposals to move immediately to an untested bundled payment system for the Medicare End Stage Renal Disease benefit.

More than 315,000 dialysis patients are dependent upon the Medicare ESRD benefit for their very survival. Therefore, it is imperative that Congress take sufficient precautions before implementing any changes to this benefit to ensure that patient care is not compromised.

Last week CMS sent a report to Congress detailing research and recommendations for moving to a fully bundled prospective payment system for dialysis services. If improperly administered, a bundled payment system could in some cases lead to restricted access and adverse incentives to limit care. Moreover, the proposed new bundled payment has not been thoroughly tested. The fact that this report has only now been transmitted to Congress despite a requirement in the 2003 Medicare Modernization Act that it be delivered no later than October 1 2005 speaks to the complexity of designing and implementing a bundled system.

Section 623(e) of the Medicare Modernization Act also required the testing of a bundled payment system through a three year demonstration project to commence in January of 2006. The fact that there is talk to move to a bundled system while the required demonstration project is still in the development stages is unacceptable.

In a statement on February 20, 2008 on the release of the report, CMS Acting Administrator Kerry Weems stated "We are currently 60 percent of the way to a proven prospective payment system for ESRD." If CMS is only 60 percent prepared for a bundled system, wouldn't it make sense for the results of the MMA required demonstration project to be taken into account before Congress makes such drastic changes to a program affecting the lives of so many extremely vulnerable patients?

While I support initiatives to improve quality and efficiency in Medicare, I do not believe that these efficiencies should come at the cost of patient well being. A bundled

system must take as many variables into consideration as possible and should be evaluated and adjusted yearly to ensure that it is working. I strongly request that any bundling proposal be carefully studied in advance and demonstration projects completed to ensure that patient care is not adversely affected.

Thank you in advance for your consideration. Please have your staff contact Matthew Coffron in my office at 202 225 5965 if you have any questions.

Sincerely,

Shelley Berkley
Member of Congress

**UNIVERSITY MEDICAL CENTER OF SOUTHERN NEVADA
BOARD OF HOSPITAL TRUSTEES
AGENDA ITEM**

Issue: Award of Contract	Back-up:
Petitioner: Kathleen Silver, Interim Chief Executive Officer, University Medical Center	Clerk Ref. #
Recommendation: That the Board of Hospital Trustees approve and authorize the Agreement for Physician Medical Directorship of the Nephrology Department and Related Professional Services (RFP No. 2007-18) between University Medical Center of Southern Nevada (UMC) and Kidney Specialists of Southern Nevada for supervision and direction of qualified Nephrology Physicians for the period August 1, 2007, through July 31, 2010; and authorize the Interim Chief Executive Officer to sign the agreement.	

FISCAL IMPACT:

Directorship Services	\$50,000 annually
Professional Medical Services	\$538,200 annually subject to a 3 percent annual increase

BACKGROUND:

On May 1, 2007, Request for Proposal No. 2007-18 requesting nephrology services was advertised in the Las Vegas Review-Journal and mailed to 6 physicians. Proposals were received from:

Kidney Specialists of Southern Nevada
R.D Prahbu-Lata K Shete, MD's LTD (received late and not accepted)

An ad hoc committee reviewed the proposals submitted, and recommends the selection of, and contract approval with Kidney Specialists of Southern Nevada.

This contract is for the medical directorship of the nephrology department including 24-hour-a-day, 7-day-a-week coverage to the hospital as well as providing necessary follow-up services.

The term of the contract is for the period from August 1, 2007 through July 31, 2010.

The Interim Chief Executive Officer and staff have reviewed the proposed contract and costs and found them to be equitable for the work to be performed.

APPROVED/AUTHORIZED AS RECOMMENDED

Respectfully submitted,


VIRGINIA VALENTINE
County Manager

Cleared for Agenda

8/21/07 ou

Agenda
Item #

85

**AGREEMENT FOR PHYSICIAN MEDICAL DIRECTORSHIP
OF THE NEPHROLOGY DEPARTMENT
AND RELATED PROFESSIONAL SERVICES**

This Agreement, made and entered into this 21st day of August, 2007, by and between University Medical Center of Southern Nevada (hereinafter referred to as "Hospital"), a publicly owned and operated hospital created by virtue of Chapter 450 of the Nevada Revised Statutes with its principal place of business at 1800 West Charleston Boulevard, Las Vegas, Nevada, 89102, and Kidney Specialists of Southern Nevada (hereinafter referred to as "Provider"), a Nevada professional corporation, duly organized and existing under and by virtue of the laws of the State of Nevada, engaged in the practice of medicine specializing in nephrology with its principal place of business at 500 South Rancho, Suite 12, Las Vegas, Nevada, 89106.

WITNESSETH:

WHEREAS, Hospital provides nephrology services which requires a Medical Directorship and professional medical services; and

WHEREAS, Hospital recognizes that the proper functioning of the same requires supervision and direction by a physician who has been properly trained and is fully qualified and competent to practice medicine as an nephrologist; and

WHEREAS, Provider is associated with a group of physicians specializing in nephrology services who are duly licensed to practice medicine in the State of Nevada and who have met the requirements for membership on the Medical Staff of Hospital; and

WHEREAS, Provider desires to contract for and provide said Medical Directorship and professional medical services; and

WHEREAS, the parties desire to provide a full statement of their agreement in connection with the operation of nephrology services in Hospital during the term of this Agreement;

NOW, THEREFORE, in consideration of the covenants and mutual promises made herein, the parties agree as follows:

I. DEFINITIONS

For the purposes of this Agreement, the following definitions apply:

- 1.1 Provider: Kidney Specialists of Southern Nevada and all physicians specializing in nephrology providing services pursuant to this Agreement who are members, associates, partners and/or employees of Kidney Specialists of Southern Nevada.
- 1.2 Principal Physician: One of Provider's members, partners or associates designated by Provider and approved by Hospital to serve as the Medical Director of Hospital's Nephrology Department.
- 1.3 Member Physicians: Physicians associated with Provider providing services pursuant to this Agreement. Unless the context requires otherwise, the term "Member Physicians" shall include the Principal Physician.

- 1.4 Allied Health Providers: Individuals other than a licensed physician, dentist, or D.O. who exercise independent or dependent judgment within the areas of their scope of practice and who are qualified to render patient care services under the supervision of a qualified physician who has been accorded privileges to provide such care in Hospital.
- 1.5 Clinical Services: Services performed for the diagnosis, prevention or treatment of disease or for assessment of a medical condition.
- 1.6 Department: Unless the context requires otherwise, Department refers to Hospital's Nephrology Department.
- 1.7 Services to Patients: Those services personally rendered by Provider's Member Physicians to the patient.
- a. To qualify as "services to patients" services must, in general: (i) be personally furnished by Provider's Member Physicians; (ii) contribute directly to the diagnosis or treatment of the patient; and (iii) ordinarily require performance by a physician.
 - b. Services to patients include: (i) consultative services; and (ii) services personally performed by Provider's Member Physicians in the administration of procedures to an individual patient.
- 1.8 Services to Hospital: Those services which do not qualify as "services to patients" as herein defined, but which are services provided by Provider to Hospital and are related to the provision of patient care in Hospital; including, but not limited to, administrative and supervisory services. Clinical services which do not meet the requirements of "services to patients" shall be considered "services to Hospital."

II. PROVIDER'S OBLIGATIONS

- 2.1 Coverage: Provider, through its Member Physicians hereby agrees to perform the following services as requested by Hospital and in a manner reasonably satisfactory to Hospital:
- a. Provider shall provide professional services in the best interests of Hospital's patients with all due diligence.
 - b. Provider shall conduct and professionally staff nephrology services in such a manner that Hospital, its Medical Staff, and patients shall at all times have immediately available adequate nephrology coverage. Provider shall render and supervise nephrology services and consult with the Medical Staff of Hospital when requested.
 - c. Provider shall provide Hospital with on-site consultative coverage on a twenty-four (24) hour-a-day, seven (7) day-a-week basis. For this purpose consultive coverage consists of patient examination/assessment, diagnosis, medical intervention and follow-up care. This coverage includes all Hospital inpatients, Hospital outpatients, Emergency Department patients and Trauma Department patients who are not designated patients of other physicians.
 - d. Provider shall provide consultative, diagnostic or medical service coverage to Hospital's outpatient nephrology clinic patients during the term of this Agreement.

- e. Provider shall provide service on an emergency and on-call basis to meet the needs of Hospital's inpatients and outpatients.
- f. Provider shall coordinate the schedules and assignments of the physicians performing nephrology services.
- g. Provider shall encourage the participation of other physicians in the community to assist Provider in the provision of the services outlined in this Agreement.

2.2 Medical Staff Appointment:

- a. Physicians employed or contracted by Provider shall at all times hereunder, be members in good standing of Hospital's medical staff with appropriate clinical privileges and appropriate Hospital credentialing. Any of Provider's Member Physicians who fail to maintain staff appointment of clinical privileges in good standing will not be permitted to render services to Hospital's patients and will be replaced promptly by Provider. Provider shall replace a Member Physician who is suspended, terminated or expelled from Hospital's Medical Staff, loses his license to practice medicine, tenders his resignation, or violates the terms of this Agreement. In the event Provider replaces or adds a Member Physician, such new physician shall meet all of the conditions set forth herein, and shall agree in writing to be bound by the terms of this Agreement. In the event an appointment to the Medical Staff is granted solely for purposes of this Agreement, such appointment shall automatically terminate upon termination of this Agreement.
- b. It is expressly agreed that continuation of this Agreement is dependent upon the continued appointment of one of Provider's Member Physicians as Director of Hospital's Nephrology Department. For the purposes of this Agreement, Marvin Bernstein, M.D., shall be designated as Provider's Principal Physician.
- c. Provider shall be fully responsible for the performance and supervision of any of its Member Physicians, including its Principal Physician, or others under its direction and control, in the performance of services under this Agreement.
- d. Allied Health Providers employed or utilized by Provider, if any, must apply for privileges and remain in good standing in accordance with the University Medical Center of Southern Nevada Allied Health Providers Manual.

2.3 Medical Director: Provider's Principal Physician shall assume medical responsibility for nephrology services during the term of this Agreement. The Principal Physician shall at all times during the term of this Agreement hold a current license to practice medicine from the State of Nevada and be Board Certified.

2.4 Clinical Responsibilities of Principal Physician:

- a. Provide nephrology services;
- b. Provide clinical direction of Hospital's Nephrology Department;

- c. Ensure clinical effectiveness by providing direction and supervision in accordance with recognized professional medical specialty standards and the requirements of local, State and national regulatory agencies and accrediting bodies;
- d. Provide consultive interpretations and documentation in accordance with the standards and recommendations of the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) and the Bylaws, Rules and Regulations of the Medical and Dental Staff, as may then be in effect;
- e. Provide ongoing patient contact as medically necessary and appropriate; this would include daily rounding on patients assigned to Nephrology Service, and Consultative availability seven (7) days per week, fifty-two (52) weeks per year.
- f. Coordinate and integrate clinically related nephrology services activities both inter and intra departmentally within Hospital;
- g. Participate in scheduled clinical staff meetings and conferences;
- h. Provide training in nephrology to resident physicians at Hospital; and
- i. Perform such other clinical duties as necessary to operate nephrology services.
- j. Provide Transplant Nephrologist to offer training and support of Hospital's Kidney Transplant Program. Support of the Transplant Program requires the provision of two four (4) hour clinics per week within the Transplant Center. The Transplant Nephrologist will provide medical examination and clearance for all prospective transplant patients.
- k. Provide a minimum of three (3) outpatient nephrology clinics per month at four (4) hours each in the Lied Outpatient Center. If appointment waiting times exceed four (4) weeks, Provider will staff such additional clinics as required to reduce waiting time to less than four (4) weeks.

2.5 Administrative Responsibilities of Principal Physician:

- a. Contribute to a positive relationship among Hospital's Administration, Hospital's Medical Staff and the community;
- b. Promote the growth and development of nephrology services in conjunction with Hospital with special emphasis on expanding diagnostic and therapeutic services;
- c. Inform the Medical Staff of new equipment and applications;
- d. Recommend innovative changes directed toward improved patient services;
- e. Develop and implement guidelines, policies and procedures in accordance with recognized professional medical specialty standards and the requirements of local, state and national regulatory agencies and accrediting bodies;
- f. Recommend the selection and development of appropriate methods, instrumentation and supplies to assure proper utilization of staff and efficient reporting of results;

DISCLOSURE OF OWNERSHIP/PRINCIPALS

Type of Business

☐ Individual ☐ Partnership ☐ Limited Liability Company ☒ Corporation ☐ Trust ☐ Other

Business Name:

BERNSTEIN, POKROY, LEHNER LTD

(Include d.b.a., if applicable)

KIDNEY SPECIALISTS OF SOUTHERN NEVADA

Business Address:

500 S. RANCHO DRSUITE 12LAS VEGAS, NV 89106

Business Telephone:

Disclosure of Ownership and Principals:

All non-publicly traded corporate business entities must list the names of individuals holding more than five percent (5%) ownership or financial interest in the business entity appearing before the Board. "Business entities" include all business associations organized under or governed by Title 7 of the Nevada Revised Statutes, including but not limited to private corporations, close corporations, foreign corporations, limited liability companies, partnerships, limited partnerships, and professional corporations. Corporate entities shall list all Corporate Officers and Board of Directors in lieu of disclosing the names of individuals with ownership or financial interest. The disclosure requirement, as applied to land-use transactions, extends to the applicant and the landowner(s).

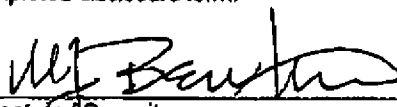
Full Name

Title

MARVIN BERNSTEIN / SECRETARY RANCHAND RANAI / PARTNERNEVILLE POKROY / TREASURER MARC LEISEROWITZ / PARTNERLAWRENCE LEHNER / PRESIDENT TOMAS LIM / PARTNERROBERT MERRELL / V. PRESIDENT ZVI SELA / PARTNERJOSEPH SNYDER / PARTNERCRISTY ROBERTSON / PARTNER

I certify under penalty of perjury, that all of the information provided herein is current, complete, and accurate. I also understand that the Board will not take action on land-use approvals, contract approvals, land sales, leases or exchanges without the completed disclosure form.

Signature / Capacity


Secretary

Marvin Bernstein, M.D.

License # 3369

Print Name

Date

8/9/17

OCT-23-2008 14:44

CMS, DSC

415 744 2692 P.02



DEPARTMENT OF HEALTH & HUMAN SERVICES
CENTERS FOR MEDICARE & MEDICAID SERVICES
WESTERN CONSORTIUM
DIVISION OF SURVEY AND CERTIFICATION

October 23, 2008

Ms. Karen Watnem
University Medical Center—Southern Nevada
Transplant Program
1800 W. Charleston Boulevard
Las Vegas, NV 89102

Re: Adult Kidney Transplant program

Dear Ms. Watnem:

As we informed you in August 2008, the Centers for Medicare and Medicaid Services (CMS) has determined that the Adult Kidney-Only transplant center at the University Medical Center does not satisfy federal requirements for participation as a Medicare-approved transplant program. Specifically, we found that the transplant center does not meet the patient survival outcome requirements contained in 42 C.F.R. § 482.80. As you also aware, CMS subsequently denied your request for approval based on mitigating factors under 42 C.F.R. § 488.61(a)(4). **Accordingly, Medicare approval for the transplant center will be revoked effective December 3, 2008. No Medicare payment will be made for transplant services furnished by the center on or after that date.** This action does not affect the Medicare hospital provider agreement for University Medical Center.

We will publish a public notice of the revocation in the Las Vegas Sun. You will be advised of the actual publication date for the notice, which will be no later than November 20, 2008.

In lieu of CMS revocation of your certification, the program may voluntarily withdraw from Medicare. If the program elects this option, you must notify Ed Q Japitana at 415-744-3703 or via electronic mail at Edgardo.japitana@cms.hhs.gov no later than November 6, 2008.

No later than November 3, 2008 you must inform Medicare beneficiaries on the waiting list that Medicare will not pay for transplants performed by the transplant center after December 2, 2008, 42 C.F.R. § 482.102(2)(ii). You must also assist waiting list patients who choose to transfer to another Medicare-approved transplantation center without loss of time accrued on the waiting list, 42 C.F.R. § 482.102(2)(ii).

The transplant center may seek re-entry into the Medicare program at any time by following the initial approval procedures described in 42 C.F.R. § 488.61(a)(4). More specific information on the application and approval process may be found at:

http://www.cms.hhs.gov/CertificationandCompliance/20_Transplant.asp.

If you disagree with this determination, you or your legal representative may request a hearing before an administrative law judge with the Civil Remedies Division of the Departmental Appeals Board for the Department of Health and Human Services, in accordance with

OCT-23-2008 14:44

CMS, DSC

415 744 2692 P.03

Kagen Watnem

Page 2

regulations contained in 42 C.F.R. Part 498. A written request for a hearing must be filed no later than 60 days from the date you receive this notice. Such a request (accompanied by a copy of this notice) should be directed to:

Departmental Appeals Board
Civil Remedies Division
Attention: Oliver Potts, Chief
Cohen Building, Room G-644
330 Independence Avenue, SW
Washington DC 20201

Please send a copy of the request to my attention at the following address:

Centers for Medicare & Medicaid Services (CMS)
Division of Survey and Certification, Non-LTC Branch
90 7th Street, Suite 5-300 (5W)
San Francisco, CA 94103-6707

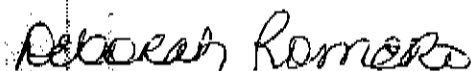
A request for hearing must contain the information specified in 42 CFR 498.40(b) and must identify the specific issues and the findings of fact and conclusions of law with which you disagree. It should also specify the basis for contending that the findings and conclusions are incorrect. Completion of the administrative review process is a prerequisite to obtaining judicial review.

Please be advised that pursuing the administrative review process will neither delay the effective date of the revocation nor extend the date of eligibility for Medicare payment for services furnished by the transplant center. **Revocation and cessation of payment will still take effect on December 3, 2008.**

If the program elects to voluntarily withdraw from Medicare, such withdrawal waives your right to appeal CMS' decision to terminate the provider agreement.

If you have any questions concerning this letter, please contact Ed Q Japitana at 415-744-3703 or by email at Edgardo.japitana@cms.hhs.gov.

Sincerely,



Deborah Romero
Operations Manager
CMS Western Consortium

¹ We emphasize this point in view of language in the preamble to the publication of the final rules for approval and re-approval of organ transplant centers which indicates erroneously -- and contrary to regulation and long-standing CMS policy -- that Medicare payment may continue pending the exhaustion of appeals under 42 C.F.R. Part 498. 72 Fed. Reg. 15198, 15247-15248 (March 30, 2007).

University Medical Center of Southern Nevada

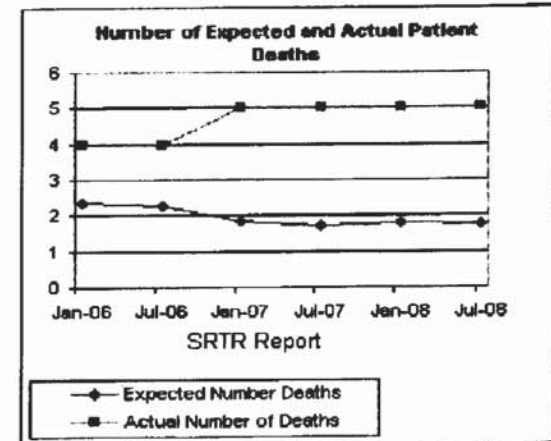
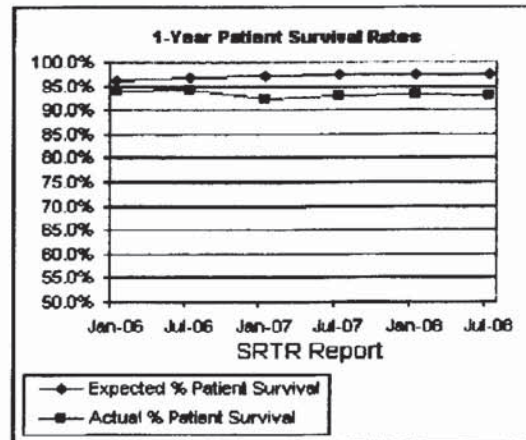
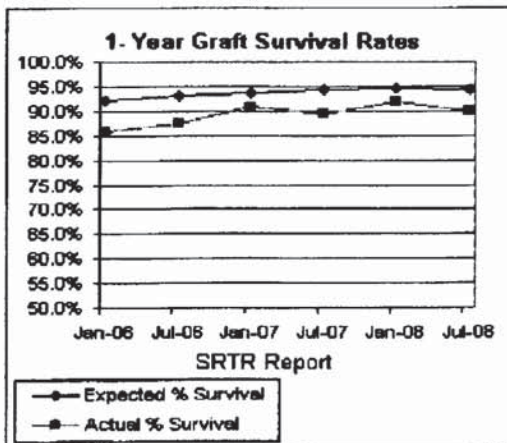
Adult Kidney

OPTN Code: NVUM

Flagged for Poor SRTR Outcome Reports	Jul-08
	Jan-08
	Jul-07
	Jan-07

SRTR Report	Cohort of Patients Transplanted Between	Graft Survival					Patient Death				
		Number of graft transplants in SRTR Report	Expected % Survival	Actual % Survival	Expected # Graft Fail	Actual # Graft Failure	Number patients in SRTR Report	Expected % Patient Survival	Actual % Patient Survival	Expected Number Deaths	Actual Number of Deaths
Jul-08	1/1/2005 to 6/30/2007						74	97.3%	93.0%	1.75	5
Jan-08	7/1/2004 to 12/31/2006	88	94.6%	91.7%	4.3	7	78	97.3%	93.2%	1.81	5
Jul-07	1/1/2004 to 6/30/2006	88	94.4%	89.2%	4.41	9	79	97.5%	92.9%	1.71	5
Jan-07	7/1/2003 to 12/31/2005						69	97.1%	92.2%	1.84	5

Note: Shaded boxes mean that the difference between the observed and expected does not meet all of the criteria for being flagged in the regulation.



102820084035

Congress of the United States
Washington, DC 20515

October 24, 2008

RECEIVED

Kerry Weems
Acting Administrator
Centers for Medicare & Medicaid Services
7500 Security Blvd
Baltimore, Maryland 21244-1849

OCT 24 2008

OSORA, DIVISION
OF CORRESPONDENCE
MANAGEMENT

Dear Acting Administrator Weems,

We are writing to express our strong disagreement with the apparent CMS decision to revoke Medicare approval of Nevada's only kidney transplant program at the University Medical Center (UMC) in Las Vegas. We are concerned that this decision does not protect Medicare beneficiaries, and could have strong negative consequences for our constituents.

It has been brought to our attention that the kidney transplant program at UMC will have its Medicare approval revoked effective December 3, 2008. We are troubled that this revocation is proceeding despite the fact that UMC has implemented measures to improve quality and taken substantial steps to address the shortcomings cited. This decision also ignores significant mitigating factors and circumstances out of the center's control.

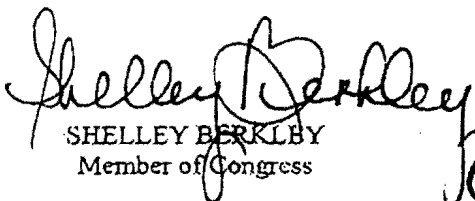
Since originally notified of the deficiencies in the transplant program, UMC has submitted a Corrective Action Plan to CMS and taken significant steps to improve quality of care and improve both management procedures and patient outcomes.

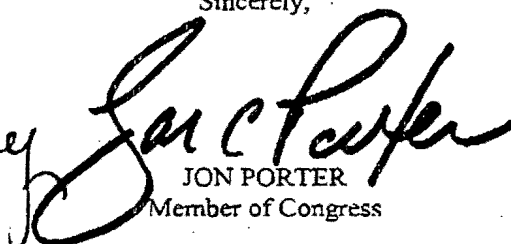
The one remaining unresolved deficiency cited in the August 4, 2008 letter sent to UMC by CMS is the one-year patient survival condition of participation. For two separate but overlapping Scientific Registry of Transplant Recipient (SRTR) cohort reporting periods, UMC did not meet the compliance standard because of the inclusion of a death that resulted from a patient's suicide in May, 2005. This death from over three and a half years ago still falls in the overlapping segment of the two reporting periods (July 1, 2004 to December 31, 2006 and January 1, 2005 to June 30, 2007).

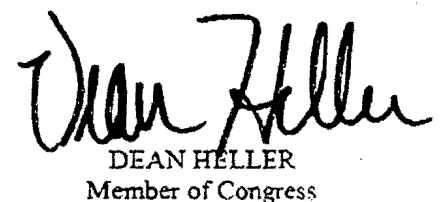
This suicide of an otherwise successful transplant patient is lamentable, but beyond the control of UMC. Additionally, data for the latest cohort reporting period from July 1, 2005 to December 31, 2007 set to be released in January will show that UMC has come back into compliance with this final requirement.

Revoking Medicare approval for the UMC kidney transplant program is uncalled for and will jeopardize the health of hundreds of our constituents while placing a severe burden on transplant centers in surrounding states. We ask that you reconsider this decision, and would be happy to discuss this situation with you further if necessary. Thank you for your consideration and look forward to your response.

Sincerely,


SHELLEY BERKLEY
Member of Congress


JON PORTER
Member of Congress


DEAN HELLER
Member of Congress

EDWARD LAWRENCE, REPORTER

Elected Officials Help to Save UMC Transplant Program

UPDATED: OCT 31, 2008 5:43 PM



The kidney transplant program was to lose its accreditation on December 3, 2008.

The transplant program at UMC has been saved, at least temporarily. *Eyewitness News* has learned a last minute deal will keep the kidney transplant program operating.

The deal in principal was reached Thursday night. The kidney transplant program was to lose its accreditation on December 3, 2008. This deal keeps it going another month beyond so the hospital can fix the problems.

Kari Coon understands the importance of having local organ transplant services, "If we have to travel or if those in control of harvesting that have to travel to do it, then the opportunity to do that is lessened."

13 years ago outside Salt Lake City, her daughter lost control of her car driving home from work. At just 17-years-old, Amber Rae did not survive the accident.

As an organ donor, doctors used her corneas, "We were told that an 82-year-old woman and a 26-year-old man were now being able to see because of Amber's gift."

The first step to a full organ program starts with kidney transplants. This month, the Centers for Medicaid Services announced it will effectively close the only transplant program in the state because of a concern about the high death rate. Transplants would stop December 3, 2008.

Representative Shelly Berkley and the rest of the Congressional Delegation stepped in to help.

"I spoke to the head of CMS yesterday. When I got off the phone, I had a good faith belief that we were going to be able to come up with a compromise that works for everybody," she said.

That compromise keeps the accreditation in place until after the first of the year. The deal includes fixes for the UMC program. New guidelines will better screen and monitor patients and there will be surprise inspections by the federal agency.

Coon says her daughters sacrifice shows how any hurdle should be overcome to keep the program, "I think that it just confirmed that whatever we can do in this life to help preserve life and make life better are things that we should do."



ROPES & GRAY LLP
ONE EMBARCADERO CENTER, SUITE 2200
SAN FRANCISCO, CA 94111 3711
WWW.ROPESGRAY.COM

Glenn L. Krinsky

November 12, 2008

VIA MESSENGER AND E-MAIL

Deborah Romero
Operations Manager
CMS Western Consortium
90 7th Street, Suite 5-300 (5W)
San Francisco, California 94103-6707

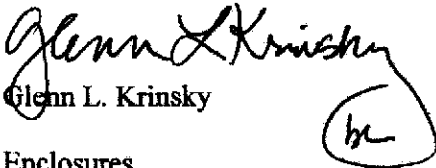
Re: *University Medical Center of Southern Nevada ("UMC")*

Dear Ms. Romero:

As a follow-up to UMC's submission to you of November 10, 2008, enclosed please find UMC's responses to the questions set forth in your letter dated October 31, 2008.

Please feel free to contact me with any comments or questions.

Thank you and best regards,


Glenn L. Krinsky

Enclosures

Please respond to the following questions by November 12, 2008

D. Questions Regarding the Agreement between the University Medical Center and surgeons from the University of Utah

- What is the duration of the agreement between the surgeons from the University of Utah and the surgeons from the University Medical Center? What are the specific actions the hospital is taking to enlist and maintain a complete, local surgical team full-time beyond the interim rotational assignments? As set forth in UMC's submission of November 10, 2008 ("Submission"), the duration of the contract between UMC and the University of Utah is two years (December 1, 2008 – November 30, 2010). If UMC is successful in recruiting permanent surgical staff, UMC may terminate the contract, but not before December 1, 2009 (thereby ensuring that the contract will stay in effect for a minimum of one year). See Submission, Topic "A" and the UMC-University of Utah contract, Attachment A2 at paragraph 6.4.

As also set forth in the Submission, UMC has entered into a contract with Transplant Management Group, LLC for the recruitment of permanent, on-site surgical staff. See Submission, Topic "C" and Attachment C2. In addition, UMC has recently interviewed three qualified primary surgeon candidates and has an interview scheduled with a fourth candidate on December 15, 2008. All four candidacies remain open at this time.

- Who are the four surgeons (and their qualifications) who will be serving in a rotating function? Are their primary responsibilities at the University of Utah to perform kidney transplants (i.e., they are part of the kidney transplant program at the University of Utah)? The four University of Utah surgeons are Dr. John Sorensen, Dr. Edward Nelson, Dr. Timothy Gayowski and Dr. Jason Schwartz. Their curricula vitae are attached to the Submission as Attachment A2-Exhibit 1. All four surgeons' primary responsibility is to the University of Utah (and affiliates') transplant program. Drs. Sorensen, Gayowski and Schwartz are all multi-organ (including kidney) transplant surgeons. Dr. Nelson is a kidney transplant surgeon.
- Will these four surgeons also be recovering organs with the Organ Procurement Organization? The four surgeons may also serve as organ recovery surgeons for the Organ Procurement Organization serving UMC. See UMC-University of Utah contract, Attachment A2 at paragraph 2.5.

E. Pre-Transplant

- Who are the primary transplant surgeon and primary transplant physician designated to the OPTN for UMC? Have they been approved by the OPTN?

Currently, Dr. Gary Shen is designated to (and approved by) the OPTN as Primary Surgeon. Upon re-activation of the program, UMC intends to designate Dr. John Sorensen to the OPTN as Primary Surgeon. UMC has already informed the OPTN of this intention.

Dr. Marvin Bernstein is designated to (and approved by) the OPTN as Primary Physician.

- Who are the members of the multidisciplinary team for living donors and candidates? What are their roles?

Transplant Surgeon – Gary Shen, M.D.

Transplant Nephrologist – Marvin Bernstein, M.D.

Transplant Manager – Karen Watnem, B.S.N., R.N.

Transplant Coordinators – Cecile Aguayo, B.S.N., R.N., C.C.T.C.

.....Bernadette Haworth, R.N.

.....Melissa Garcia, B.S.N., R.N.

Pharmacist – (b)(6), Pharm.D.

Social Worker – (b)(6), L.C.S.W.

Dietician – (b)(6) - R.D.

Financial Coordinator – (b)(6)

Data Coordinator – (b)(6), L.P.N.

Living Donor Advocate – (b)(6), R.N.

HLA representative – (b)(6)

Transplant R.N. – inpatient caregiver for recipient and living donor

- Will a transplant surgeon see all potential candidates being evaluated for transplantation?

Yes – throughout the whole process.

- Who are the nephrologists(s) evaluating the patient? Are those individuals specifically trained in transplantation?

Dr. Marvin Bernstein is the primary transplant nephrologist. Dr. Bernstein has been associated with the transplant program since its inception in December 1989. Since the untimely death of Dr. Joseph Snyder in December 2007, Dr. Bernstein has served (and been approved by the OPTN) as Primary Physician. Dr. Bernstein was not formally trained in transplantation, but has been caring for pre-transplant and post-transplant patients for more than 18 years. Dr. Bernstein's professional medical group has made an offer to a candidate currently completing an American Society of Transplantation-approved fellowship at Virginia Commonwealth University. If the offer is accepted, UMC intends to designate the candidate as the program's primary transplant nephrologist beginning in June 2009.

- What was the average days/weeks needed for a patient to complete an evaluation prior to going inactive? The average time from referral to listing (status 1) is 60 days. Last month, UMC received an award from the National Learning Congress for meeting the 60-day goal. Patients with extenuating circumstances are given up to six months to complete their evaluation. Does the program expect that this will change? The physician and administrative support recently added to the program should aid in decreasing this average time even further.



DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services

Administrator
Washington, DC 20201

JAN - 8 2009

The Honorable Shelley Berkley
House of Representatives
Washington, DC 20515

Dear Ms. Berkley:

Thank you for your letter regarding the Centers for Medicare & Medicaid Services' (CMS) decision to de-certify University Medical Center's (UMC) kidney transplant program. I apologize for the delay in this response.

Effective December 1, 2008, CMS and UMC have agreed to a binding *Systems Improvement Agreement* ("the Agreement"). The Agreement recognizes that there have been significant quality problems at the UMC kidney transplant program, and that UMC has recently made substantial improvements to address these issues.

In light of these improvements, CMS has agreed to extend the prospective termination date until June 8, 2009, and will later schedule an onsite survey to verify that the improvements are effective. If CMS' later survey verifies that the transplant program meets all CMS requirements for patient safety and quality of care, CMS may remove the termination action.

I hope this information addresses your concerns. CMS' goal is to ensure that quality transplantation services are provided to Medicare beneficiaries in Nevada. We are encouraged by the improvements that UMC has made to date and expect that these efforts will successfully transform the program. I will also provide this response to the cosigners of your letter.

Sincerely,

A handwritten signature in black ink, which appears to read "Kerry Weems", is written over a horizontal line.

Kerry Weems
Acting Administrator

**UNIVERSITY MEDICAL CENTER OF SOUTHERN NEVADA
HOSPITAL ADVISORY BOARD
AGENDA ITEM**

Issue: Nephrology Services with Bernstein, Pokroy & Lehrner, Ltd. d/b/a Kidney Specialists of Southern Nevada.	Back-up:
Petitioner: Kathleen Silver, Chief Executive Officer, University Medical Center	Clerk Ref. #
Recommendation: That the Hospital Advisory Board award RFP No. 2010-18, Nephrology Services, to Bernstein, Pokroy & Lehrner, Ltd. d/b/a Kidney Specialists of Southern Nevada; and authorize the Chief Executive Officer to sign the Agreement for Physician Medical Directorship and Physician Professional Services.	

FISCAL IMPACT:

Fund #: 5420.000

Fund Center: 3000719000

Fund Name: UMC Operating Fund

Amount: \$25,000 per year for Directorship services

\$713,720 per year for professional medical services

Additional Comments: Prices for professional services may be adjusted annually on anniversary date based on changes to the CPI – West Area.

BACKGROUND:

On May 23, 2010, RFP No. 2010-18 was published in the Las Vegas Review Journal for Nephrology Services. On June 22, 2010, only one (1) response was received and the sole respondent was Kidney Specialists of Southern Nevada.

An ad hoc committee reviewed the proposal submitted and recommends the selection of, and contract approval with Kidney Specialists of Southern Nevada. Provider shall provide the following:

- Provide nephrology services consultative coverage 24-hours-a-day, 7-days-a-week basis consisting of patient examination, diagnosis, medical/surgical intervention and follow-up care to all Hospital inpatients, outpatients, ER and Trauma Department patients.
- Provide consultative, diagnostic or medical service coverage at the outpatient nephrology clinic during the term of this contract at three (3) clinics per month for up to four (4) hours per clinic.
- Provide consultative, diagnostic or medical service coverage and training with a transplant nephrologist at the Transplant Center during the term of this contract at four (4) clinics per week for up to four (4) hours per clinic.

Cleared for Agenda
December 8, 2010

Agenda Item #

9

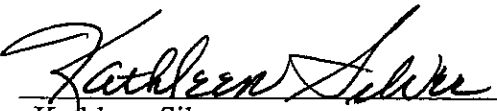
- Provide service on an emergency and on-call basis to meet the needs of Hospital's inpatients and outpatients.

The term of this agreement is from January 1, 2011 through December 31, 2015 unless terminated with a 90-day written notice.

Staff has reviewed the proposed Agreement and costs associated, and found them equitable for the work to be performed.

Kidney Specialists of Southern Nevada currently holds a Clark County business license.

Respectfully submitted,


Kathleen Silver
Chief Executive Officer

**AGREEMENT FOR PHYSICIAN MEDICAL DIRECTORSHIP
AND PHYSICIAN PROFESSIONAL SERVICES**

This Agreement, made and entered into this ____ day of December, 2010, by and between **University Medical Center of Southern Nevada**, a publicly owned and operated hospital created by virtue of Chapter 450 of the Nevada Revised Statutes (hereinafter referred to as "Hospital") and **Bernstein, Pokroy & Lehrner, LTD. d/b/a Kidney Specialists of Southern Nevada**, a professional corporation, engaged in the practice of medicine specializing in nephrology services and existing under and by virtue of the laws of the State of Nevada, with its principal place of business at 500 South Rancho, Suite 12, Las Vegas, Nevada 89106 (hereinafter referred to as the "Provider");

WHEREAS, Hospital is the operator of a Nephrology Department located in Hospital which requires a Medical Directorship and professional medical services; and

WHEREAS, Hospital recognizes that the proper functioning of the Nephrology Department requires supervision and direction by a physician who has been properly trained and is fully qualified and competent to practice medicine as a nephrologist; and

WHEREAS, Provider desires to contract for and provide said Medical Directorship and professional medical services; and

WHEREAS, the parties desire to provide a full statement of their agreement in connection with the operation of Nephrology Department in Hospital during the term of this Agreement.

NOW THEREFORE, in consideration of the covenants and mutual promises made herein, the parties agree as follows:

I. DEFINITIONS

For the purposes of this Agreement, the following definitions apply:

- 1.1 Provider. **Bernstein, Pokroy & Lehrner, LTD. d/b/a Kidney Specialists of Southern Nevada** and all physicians associated with it who have privileges at Hospital to provide nephrology specialist services.
- 1.2 Principal Physician. Marvin J. Bernstein, M.D.
- 1.3 Member Physicians. Physicians associated with Provider who provide services pursuant to this Agreement. Unless the context requires otherwise, the term "Member Physicians" shall include the Principal Physician.
- 1.4 Allied Health Providers. Individuals other than a licensed physician, M.D., D.O. or dentist who exercise independent or dependent judgment within the areas of their scope of practice and who are qualified to render patient care services under the supervision of a qualified physician who has been accorded privileges to provide such care in Hospital.
- 1.5 Department. Unless the context requires otherwise, Department refers to Hospital's Department of Nephrology.
- 1.6 Clinical Services. Services performed for the diagnosis, prevention or treatment of disease or for assessment of a medical condition.

- 1.7 Services to Patients. Those services personally rendered by Provider's Member Physicians to the patient:
- a. To qualify as "services to patients", services must, in general: (i) be personally furnished by Provider's Member Physicians; (ii) contribute directly to the diagnosis or treatment of the patient; and (iii) ordinarily require performance by a physician.
 - b. Services to patients include: (i) consultative services; and (ii) services personally performed by Provider's Member Physicians in the administration of procedures to an individual patient.
- 1.8 Services to Hospital. Those services which do not qualify as "services to patients" as herein defined, but which are services provided by Provider to Hospital and are related to the provision of patient care in Hospital; including, but not limited to, administrative and supervisory services. Clinical services which do not meet the requirements of "services to patients" shall be considered "services to Hospital."

II. PROVIDER'S OBLIGATIONS

- 2.1 Coverage. Provider, through its Member Physicians hereby agrees to perform the following services as requested by Hospital and in a manner reasonably satisfactory to Hospital:
- a. Provider shall provide professional services in the best interests of Hospital's patients with all due diligence.
 - b. Provider will professionally staff Department during its normal operating hours so that a Physician is present when required for delivery of Services to Patients. Provider shall consult with the Medical Staff of Hospital when requested.
 - c. Provider shall provide Hospital with consultative coverage on a twenty-four (24) hour-a-day, seven (7) day-a-week basis. For this purpose consultive coverage consists of patient examination/assessment, diagnosis, medical/surgical intervention and follow-up care. This coverage includes all Hospital inpatients, Hospital outpatients, Emergency Department patients and Trauma Department patients who are not designated patients of other physicians unless resident coverage has been assigned to another group or physician on a predetermined and agreed upon scheduled rotation.
 - d. Provider shall provide consultative, diagnostic or medical service coverage at the outpatient nephrology clinic during the term of this agreement at three (3) clinics per month for up to four (4) hours per clinic. Provider shall ensure that outpatient clinic patients shall not have to wait more than ten (10) calendar days for an urgent visit and no more than thirty (30) calendar days for an elective appointment. If appointment waiting times exceed these thresholds, Provider will staff additional clinics as required to reduce waiting times below these thresholds.
 - e. Provider shall provide consultative, diagnostic or medical service coverage and training with a transplant nephrologist at the Transplant Center during the term of this agreement at four (4) clinics per week for up to four (4) hours per clinic. The transplant nephrologist will provide medical examination and clearance for prospective transplant patients.

- 7.22 Publicity. Neither Hospital nor Provider shall cause to be published or disseminated any advertising materials, either printed or electronically transmitted which identify the other party or its facilities with respect to this Agreement without the prior written consent of the other party.
- 7.23 Performance. Time is of the essence in this Agreement.
- 7.24 Severability. In the event any provision of this Agreement is rendered invalid or unenforceable, said provision(s) hereof will be immediately void and may be renegotiated for the sole purpose of rectifying the error. The remainder of the provisions of this Agreement not in question shall remain in full force and effect.
- 7.25 Third Party Interest/Liability. This Agreement is entered into for the exclusive benefit of the undersigned parties and is not intended to create any rights, powers or interests in any third party. Hospital and/or Provider, including any of their respective officers, directors, employees or agents, shall not be liable to third parties by any act or omission of the other party.
- 7.26 Waiver. A party's failure to insist upon strict performance of any covenant or condition of this Agreement, or to exercise any option or right herein contained, shall not act as a waiver or relinquishment of said covenant, condition or right nor as a waiver or relinquishment of any future right to enforce such covenant, condition or right.

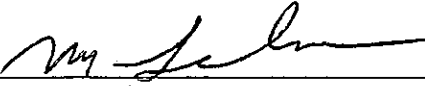
IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the day and year first above written.

Provider:

Hospital:

**Beinstein, Pokroy & Lehrner, LTD. d/b/a
Kidney Specialists of Southern Nevada**

**University Medical Center of Southern
Nevada**

By: 
Larry Lehrner
President 

By: _____
Kathleen Silver
Chief Executive Officer

DISCLOSURE OF OWNERSHIP/PRINCIPALS

☐ List any disclosures below:

NAME OF BUSINESS OWNER/PRINCIPAL	NAME OF COUNTY* EMPLOYEE(S)	RELATIONSHIP TO COUNTY* EMPLOYEE	COUNTY DEPARTMENT
Larry Lehner, MD	Shelley Berkley	Spouse	U.S. Congress

* County employee means Clark County, University Medical Center, Department of Aviation, or Clark County Water Reclamation District.

☐ Consanguinity" is a relationship by blood. "Affinity" is a relationship by marriage.

"To the second degree of consanguinity" applies to the candidate's first and second degree of blood relatives as follows:

- Spouse – Registered Domestic Partners – Children – Parents – In-laws (first degree)
- Brothers/Sisters – Half-Brothers/Half-Sisters – Grandchildren – Grandparents – In-laws (second degree)

February 2, 2011

The Honorable Dave Camp
Chairman, Ways and Means Committee
United States House of Representatives
1102 Longworth House Office Building
Washington D.C. 20515
Phone: (202) 225-3625
Fax: (202) 225-5680

Dear Mr. Camp:

At the end of last year, we wrote to you highlighting our concerns regarding the Centers for Medicare and Medicaid Services' (CMS) decision to continue to use estimates, rather than using actual data, in establishing the "transition adjustment" to the new Medicare End Stage Renal Disease (ESRD) payment system. Our organizations, which represent individuals with kidney disease and kidney failure, remain grateful that CMS has heeded patients' concerns on several points related to implementation of the new payment system. However, we remain troubled that the transition adjustment has not been revised. Failure to revise it based on actual data could result in a loss of approximately \$250 million from Medicare funding for dialysis patient care. We are disappointed that the previous Congress did not take the opportunity to direct CMS to base this adjustment, without having to go through rulemaking, on the actual number of facilities that have chosen to opt into the new payment system. We strongly urge you to act quickly this year so that CMS can implement the appropriate adjustment amount by April 1, 2011, making it retroactive to January 1, 2011. Failure to do so could negatively affect access to and quality of care for this vulnerable patient population.

Congress established the transition adjustment to ensure budget neutrality for Medicare's new ESRD Prospective Payment System (PPS), while allowing dialysis facilities the option to transition into the new payment system during a four-year period. CMS has acknowledged that the adjustment was not intended to achieve savings beyond what was already provided in the legislation. While we appreciate that the Agency is willing to fix this during the next rulemaking cycle, we are concerned waiting until 2012 could create a hardship for many dialysis facilities that depend upon timely and accurate Medicare payments to provide high-quality care.

As we noted in our earlier letter, CMS estimated that only 43 percent of facilities would opt in to the new payment system, requiring a 3.1 percent reduction in Medicare payments during the transition years in order to achieve budget neutrality. However, all dialysis centers were required to notify CMS by November 1 whether they would actually choose to fully implement the PPS. As it turns out, CMS substantially underestimated the number of centers that would opt to fully implement the new PPS. A study by The Moran Company finds more than 90 percent of all facilities intend to be paid fully under the new PPS. Using the actual number of centers opting in, rather than the CMS estimate, will ensure that Congressional intent is achieved and that dialysis care is not unnecessarily placed at risk.

Not correcting the transition adjustment now will undermine the important improvements to the Medicare ESRD program that Congress has made, including providing an annual payment update and implementing the first true pay-for-performance program under Medicare. If the

proposed 3.1 percent adjustment is implemented, overall dialysis payment cuts will be far in excess of the 2 percent Congress mandated in the Medicare Improvements for Patients and Providers Act (MIPPA). If dialysis services are underfunded, patient care will be directly and negatively affected.

To protect dialysis patients' access to quality care, Congress should instruct CMS immediately to correct the adjuster and base it on actual provider behavior so that payments made in 2011 are consistent with Congressional intent. It is very important that the Agency make the adjustment to the payment system as quickly as possible and at least by April 1, 2011.

Thank you for your attention to this important matter that could impact the lives and health of individuals on dialysis nationwide.

Sincerely,

LaVarne Burton



President and CEO
American Kidney Fund
6110 Executive Blvd. , Suite 1010
Rockville, MD 20852

John Davis



CEO
National Kidney Foundation
East 33rd Street
New York, NY 10016

Tonya L. Saffer



Interim Executive Director
Dialysis Patient Citizens
900 7th Street, NW, Suite 670
Washington, DC 20001

Lori Hartwell



President and Founder
Renal Support Network
1311 N. Maryland Ave
Glendale, CA 91207

DaVita's CEO Discusses Q4 2010 Results February 10, 2011

Kent Thiry, DaVita Chief Executive

As of January 1, we are in the bundle as most of you know. You will also recall that we are being subjected to an annual cut of approximately \$140 million in Medicare reimbursement for our 2010. We are working hard to fill this gap and are making solid progress. There are still also a few uncertainties under the new reimbursement itself. We do not yet know how the clinical changes that physicians are implementing will play out across our entire patient population. We will not receive our first payments for a couple more weeks, and we continue to have to work on being able to identify and capture case mix and outlier adjusters. This is one of the frustrating exceptions to the otherwise collaborative process we have had with CMS in implementing the bundle.

They were told by the entire community ahead of time that not only do we not have the data for many of the proposed adjusters, but also no one has obligated to give it to us, period, much less on a timely basis. And so these adjusters will create a lot of operating issues and will also mean we will not receive the reimbursement level that CMS has projected.

Putting all of this together, our current outlook is that 2011 operating income will be flat or modestly down. The cryptic summary of why a lot of the good things are offset leading us for that directional guidance is the following five items: A, the Medicare cut just alluded to; B, Medicaid cuts; C, VA cuts or more likely reduction in VA patient volume as we can no longer afford to take more government-paid patients at reimbursement that is less than the cost of taking care of them; D, commercial mix changes; and then E, an unusual surge in our G&A expenses driven primarily by IT investments and our investment in international growth.

++++

Ilan Chaitowitz - Redburn Partners LLP

And on the probability of a transition adjustment revision in the first quarter of 2011?

Kent Thiry

That probability is low. Not zero, but low.

Operator

Your next question comes from the line of Gary Taylor with Citigroup.

Gary Taylor - Citigroup Inc

I guess, one, just going back to the transition payment adjustment. Is there any color you think would be helpful for us to have? I know at one point last year you were hopeful there was a legislative solution. And at other points, you were, maybe hopeful isn't the right word, but hopeful of an administrative solution. Kind of where do we stand now, and maybe more specifically as we head into 2012 and we head into the summer when presumably we get a ESRD proposed rule, what's your outlook on a correction of this mathematical error as we head into 2012?

Kent Thiry

Yes, let me take a cut at it. I mean, there's three buckets. As to a legislative solution soon, despite the fact we have a lot of support, it's unlikely because they're so dysfunctional. As to legislative pressure leading to a regulatory solution soon, not in the first quarter but soon, we have a shot. As to an ultimate satisfactory regulatory solution, we have received positive indications but getting positive indications nine months before something actually is going to supposedly happen and all the processes they go through at that time is, well, much better than getting negative comments not nearly as reassuring as we'd like it to be.

Congress of the United States
Washington, DC 20515

March 18, 2011

The Honorable Kathleen Sebelius
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Donald Berwick, MD
Administrator
Centers for Medicare and Medicaid Services
200 Independence Avenue, SW, Room 314 G
Washington, DC 20201

Dear Secretary Sebelius and Administrator Berwick:

We appreciate the Centers for Medicare and Medicaid Services' (CMS) work to establish a reasonable regulatory structure for dialysis facilities under the new prospective payment system (PPS). However, we are concerned that the 2011 payment adjustment tied to anticipated facility behavior is based on a significantly inaccurate estimate and could lead to reduced efficiencies and potential disruptions in dialysis care.

Based on an assumption that just 43 percent of dialysis facilities would elect to fully opt into the PPS in 2011, instead of participate in a four-year phase-in, CMS imposed a negative "transition adjustment" of 3.1 percent on all dialysis facilities in order to maintain budget neutrality. While we recognize that it was difficult to project precisely how facilities would behave, CMS should now know the actual number of facilities that chose full PPS and those that chose to transition to it, as facilities were required to inform the agency of their election decision by November 1, 2010.

Because we understand that twice as many or more facilities elected to fully participate in the PPS than CMS estimated, we are concerned that failure to immediately correct the transition adjustment could result in substantial underfunding of dialysis treatment and potential disruptions in care. Given the importance of the success of the PPS to patients, providers and the Medicare program, we urge CMS to revise the transition adjuster immediately to account for the facilities' actual election. In the absence of a correction using actual elections, CMS should revise the estimate underlying the transition adjustment using its current best estimate, which would not require rulemaking. Of course, the agency should then revise the transition adjuster to reflect actual elections in the ordinary course.

Not only is a correction the right course of action for Medicare beneficiaries with end stage renal disease, we also believe it is the one mandated by the PPS' budget neutrality.

Thank you for your consideration and your continued commitment to caring for our Medicare beneficiaries.

Sincerely,


CHARLES W. BOUSTANY, JR., MD
Member of Congress


SHELLEY BERKLEY
Member of Congress



THE KIDNEY CARE COUNCIL

Providers of Quality Care for the Nation's Dialysis Patients

For Immediate Release

Contact: Cherilyn Cepriano
ccepriano@kidneycarecouncil.org
(202) 744-2124

Kidney Care Council Statement on the Center for Medicare and Medicaid Services' Interim Final Rule on the Transition Adjustment for Dialysis Facilities

Washington, DC (April 5, 2011) – The Kidney Care Council (KCC) applauds the Centers for Medicare & Medicaid Services (CMS) for revising the transition adjustment component of the Medicare end-stage renal disease (ESRD) prospective payment system (PPS). This change, which is supported by the kidney community and driven by statute, will help ensure that patients continue to receive high quality care in the nation's dialysis facilities.

On April 1, CMS published an interim final rule that recalculates the transition adjustment using the actual number of facilities that elected to be paid fully under the ESRD PPS rather than participating in a four-year transition period. As a result, the Agency stated that for April 1, 2011, through December 31, 2011, the transition adjustment will be zero. Previously, CMS had relied on an inaccurate estimate of the number of facilities that opted out of the transition period as the basis for a 3.1 percent cut for all dialysis facilities.

In addition, KCC is grateful for the leadership of Senators Baucus, Conrad, Hatch and Grassley, as well as Reps. Boustany and Berkley on this important issue.

###

KCC is a nonprofit national health care association based in Washington, D.C. and comprised of twelve of the leading kidney dialysis provider companies in the United States. Collectively, the KCC members provide End Stage Renal Disease (ESRD) services to 85 percent of the dialysis patients in the United States. The membership includes large, small, nonprofit and for-profit provider companies.

EXCERPTS FROM THE HOUSE ETHICS MANUAL

Employment Considerations for Spouses of Members and Staff

The rules and standards that prohibit the use of one's official position for personal gain, which are set out in this chapter, are fully applicable to Members and staff persons with regard to their spouse's employment. Specifically, a provision of the House Code of Official Conduct, prohibits a Member from receiving any compensation, or allowing any compensation to accrue to the Member's beneficial interest, from any source as a result of an improper exercise of official influence (House Rule 23, cl. 3). Additionally, the Code of Ethics for Government Service (§ 5) admonishes officials never to accept benefits for themselves or their families —under circumstances which might be construed by reasonable persons as influencing the performance of official duties. The income received by a spouse from employment usually accrues, albeit indirectly, to a Member's interest.

Nonetheless, neither of these provisions is triggered by a spouse's employment unless a Member or staff person exerts influence or performs official acts in order to obtain compensation for, or as a result of compensation paid to, his or her spouse.

Voting and Other Activities on Matters of Personal Interest

No statute or rule requires the divestiture of private assets or holdings by Members or employees of the House upon entering their official position. Since legislation considered by Congress affects such a broad spectrum of business and economic endeavors, a Member of the House may be confronted with the possibility of voting on legislation that would have an impact upon a personal economic interest. This may arise, for example, where a bill authorizes appropriations for a project for which the contractor is a corporation in which the Member is a shareholder, or where a Member holds a kind of municipal security for which a bill would provide federal guarantees.

Longstanding House precedents have not found such interests to warrant abstention under the above-quoted House Rule that instructs Members to vote on each question presented unless they have —a direct personal or pecuniary interest in the event of such question.|| Rather, it has generally been found that —where legislation affected a class as distinct from individuals, a Member might vote.||

However, while the Standards Committee has endorsed the principle that —"each individual Member has the responsibility of deciding for himself whether his personal interest in pending legislation requires that he abstain from voting," it did so after investigating allegations (among others) that a Member had violated the rule by not refraining from voting in a particular instance. The Committee cleared

the Member of this charge, but it has occasionally advised Members, in private advisory opinions, that it would be inappropriate for them to vote or to introduce legislation directly affecting significant and uniquely held financial interests. At times a question arises as to whether the—class|| to which a Member belongs with regard to a piece of legislation – such as, for example, the class of owners of a particular area of land that would be acquired by the government under the legislation – is sufficiently large to warrant the Member voting under the authorities set out above.

The provisions of House Rule 3, clause 1, as discussed in this section, apply only to Member voting on the House floor. They do not apply to other actions that Members may normally take on particular matters in connection with their official duties, such as sponsoring legislation, advocating or participating in an action by a House committee, or contacting an executive branch agency. Such actions entail a degree of advocacy above and beyond that involved in voting, and thus a Member's decision on whether to take any such action on a matter that may affect his or her personal financial interests requires added circumspection. Moreover, such actions may implicate the rules and standards, discussed above, that prohibit the use of one's official position for personal gain.

Personal Financial Interests

Just as Representatives may vote on legislation that affects them as members of a class rather than as individuals, Members and employees may generally contact federal agencies on issues in which they, along with their constituents, have interests. A constituent need not be denied congressional intercession merely because a Member or the staff assistant assigned to a particular issue may stand to derive some incidental benefit along with others in the same class. Thus, Members who happen to be farmers may nonetheless represent their constituents in communicating views on farm policy to the Department of Agriculture. Only when Members' actions would serve their own narrow, financial interests as distinct from those of their constituents should the Members refrain.||

Employment Considerations for Spouses of Members and Staff

The prohibition against doing any special favors for anyone in one's official capacity is a fundamental standard of conduct, and it applies to an official's conduct with regard to not only his or her spouse or other family members, but more broadly to any person. Special caution must be exercised when the spouse of a Member or staff person, or any other immediate family member, is a lobbyist. At a minimum, such an official should not permit the spouse to lobby either him- or herself or any of his or her subordinates.

**UNITED STATES HOUSE OF REPRESENTATIVES
CALENDAR YEAR 2010 FINANCIAL DISCLOSURE STATEMENT**

Form A
For use by Members, officers, and employees

LEGISLATIVE RESOURCE CENTER

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2011 MAY 13 PM 12:23

Name: Shelley Berkley

Daytime Telephone: 202-225-5965

U.S. HOUSE OF REPRESENTATIVES

HAND DELIVERED
(Office Use Only)

MC

Filer Status	☒ Member of the U.S. House of Representatives	State: <u>Nevada</u>	☐ Officer or Employee	Employing Office:
Report Type	☒ Annual (May 16, 2011)	☐ Amendment	☐ Termination	Termination Date:

A \$200 penalty shall be assessed against anyone who files more than 30 days late.

PRELIMINARY INFORMATION — ANSWER EACH OF THESE QUESTIONS

I. Did you or your spouse have "earned" income (e.g., salaries or fees) of \$200 or more from any source in the reporting period? If yes, complete and attach Schedule I.	Yes ☒ No ☐	VI. Did you, your spouse, or a dependent child receive any reportable gift in the reporting period (i.e., aggregating more than \$335 and not otherwise exempt)? If yes, complete and attach Schedule VI.	Yes ☐ No ☒
II. Did any individual or organization make a donation to charity in lieu of paying you for a speech, appearance, or article in the reporting period? If yes, complete and attach Schedule II.	Yes ☐ No ☒	VII. Did you, your spouse, or a dependent child receive any reportable travel or reimbursements for travel in the reporting period (worth more than \$335 from one source)? If yes, complete and attach Schedule VII.	Yes ☐ No ☒
III. Did you, your spouse, or a dependent child receive "unearned" income of more than \$200 in the reporting period or hold any reportable asset worth more than \$1,000 at the end of the period? If yes, complete and attach Schedule III.	Yes ☒ No ☐	VIII. Did you hold any reportable positions on or before the date of filing in the current calendar year? If yes, complete and attach Schedule VIII.	Yes ☐ No ☒
IV. Did you, your spouse, or a dependent child purchase, sell, or exchange any reportable asset in a transaction exceeding \$1,000 during the reporting period? If yes, complete and attach Schedule IV.	Yes ☒ No ☐	IX. Did you have any reportable agreement or arrangement with an outside entity? If yes, complete and attach Schedule IX.	Yes ☐ No ☒
V. Did you, your spouse, or a dependent child have any reportable liability (more than \$10,000) during the reporting period? If yes, complete and attach Schedule V.	Yes ☒ No ☐	Each question in this part must be answered and the appropriate schedule attached for each "Yes" response.	

EXCLUSION OF SPOUSE, DEPENDENT, OR TRUST INFORMATION — ANSWER EACH OF THESE QUESTIONS

TRUSTS —Details regarding "Qualified Blind Trusts" approved by the Committee on Ethics and certain other "excepted trusts" need not be disclosed. Have you excluded from this report details of such a trust benefiting you, your spouse, or dependent child?	Yes ☐ No ☒
EXEMPTION —Have you excluded from this report any other assets, "unearned" income, transactions, or liabilities of a spouse or dependent child because they meet all three tests for exemption? Do not answer "yes" unless you have first consulted with the Committee on Ethics.	Yes ☐ No ☒

SCHEDULE I — EARNED INCOME

List the source, type, and amount of earned income from any source (other than the filer's current employment by the U.S. Government) totalling \$200 or more during the preceding calendar year. For a spouse, list the source and amount of any honoraria; list only the source for other spouse earned income exceeding \$1,000.

Source		Type	Amount
Examples:	Keene State	Approved Teaching Fee	\$8,000
	State of Maryland	Legislative Pension	\$9,000
	Civil War Roundtable (Oct. 2nd)	Spouse Speech	\$1,000
	Ontario County Board of Education	Spouse Salary	NA
Kidney Specialists of Southern NV (paid by Trinet a payroll company)		Spouse Salary	NA
Amgen		Spouse Consulting	NA
Kindred Healthcare		Spouse Consulting	NA
Satellite Dialysis		Spouse Consulting	NA
Healthinsight		Spouse Consulting	NA
Pharmerica Corp		Spouse Consulting	NA
Touro University		Spouse Consulting	NA
Nephroceuticals		Spouse Consulting	NA

For payments to charity in lieu of honoraria, use Schedule II.

SCHEDULE III — ASSETS AND "UNEARNED" INCOME

Name **Shelley Berkley**

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BLOCK A Asset and/or Income Source			BLOCK B Value of Asset							BLOCK C Type of Income		BLOCK D Amount of Income						BLOCK E Transaction
Identify (a) each asset held for investment or production of income with a fair market value exceeding \$1,000 at the end of the reporting period, and (b) any other asset or source of income which generated more than \$200 in "unearned" income during the year. For rental property or land, provide an address. Provide full names of any mutual funds. For a self-directed IRA (i.e., one where you have the power to select the specific investments), provide information on each asset in the account that exceeds the reporting threshold, and the income earned for the account. For an IRA or retirement plan that is not self-directed, name the institution holding the account and provide its value at the end of the reporting period. For an active business that is not publicly traded, in Block A state the nature of the business and its geographic location. For additional information, see the instruction booklet for the reporting year.			Value of Asset at close of reporting year. If you use a valuation method other than fair market value, please specify the method used. If an asset was sold and is included only because it generated income, the value should be "None."							Type of Income		Amount of Income For retirement plans or accounts that do not allow you to choose specific investments, you may write "NA" for income. For all other assets, indicate the category of income by checking the appropriate box below. Dividends, even if reinvested, should be listed as income.						Indicate if asset was purchased (P), sold (S), or exchanged (E) in reporting year.
			A	C	E	G	I	K			I	III	V	VII	IX	XI		
			None	\$1,001 - \$15,000	\$50,001 - \$100,000	\$250,001 - \$500,000	\$1,000,001 - \$5,000,000	\$25,000,001 - \$50,000,000	DIVIDENDS	INTEREST	EXCEPTED TRUST	Other Type of Income (Specify: For Example, Partnership Income or Farm Income)						
											None	\$201 - \$1,000	\$2,501 - \$5,000	\$15,001 - \$50,000	\$100,001 - \$1,000,000	Over \$5,000,000	P, S, E	
SP		SP Mega Corp. Stock			X				X								P	
DC	Examples:	Simon & Schuster		Indefinite											X			
JT		1st Bank of Paducah, KY accounts								X								
SP		Bank of Nevada NV								X								
SP		Pentagon Fed Credit Union								X								
		Pentagon Fed Credit Union								X								
		Congressional Fed Credit Union	X							X								
		Nevada State Bank									X							

For additional assets and unearned income, use next page.

Continuation Sheet (if needed)

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[illegible]

Continuation Sheet (if needed)

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[illegible]

Continuation Sheet (if needed)

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Continuation Sheet (if needed)

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[illegible]

Continuation Sheet (if needed)

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SCHEDULE III — ASSETS AND "UNEARNED" INCOME

Continuation Sheet (if needed)

Name **Shelley Berkley**

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SP, DC, JT	BLOCK A Asset and/or Income Source	BLOCK B Year-End Value of Asset						BLOCK C Type of Income				BLOCK D Amount of Income						BLOCK E Transaction
		A None	C \$1,001 — \$15,000	E \$50,001 — \$100,000	G \$250,001 — \$500,000	I \$1,000,001 — \$5,000,000	K \$25,000,001 — \$50,000,000	DIVIDENDS	INTEREST	EXCEPTED TRUST	Other Type of Income (Specify)	I None	III \$201 — \$1,000	V \$2,501 — \$5,000	VII \$15,001 — \$50,000	IX \$100,001 — \$1,000,000	XI Over \$5,000,000	P, S, E
SP	VAC, LLC- land and building 3150 Charleston LV, NV			X														
SP	1660 Honeysuckle Pahrump NV		X									X						
SP	2630 E. Harris Farm Rd Pahrump NV			X								X						
SP	Pahrump land- assessor's # 27-211-03			X								X						
JT	1281 Laura Pahrump NV		X									X						
JT	1241 Pascoe Pahrump NV											X						
SP	Henderson Dialysis LLC dialysis unit Henderson NV				X						LLC distribution							

Continuation Sheet (if needed)

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Continuation Sheet (if needed)

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[illegible]

Name Shelley Berkley Page 12 of 178

Capital Gains — If a sales transaction resulted in a capital gain in excess of \$200, check the "capital gains" box and disclose this income on Schedule III.

[illegible]

SCHEDULE V — LIABILITIES

Name **Shelley Berkley**

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Report liabilities of over \$10,000 owed to any one creditor *at any time* during the reporting period by you, your spouse, or dependent child. Mark the highest amount owed during the year. Exclude: Any mortgage on your personal residence (unless it is rented out); loans secured by automobiles, household furniture, or appliances; and liabilities owed to a spouse, or the child, parent, or sibling of you or your spouse. Report *revolving charge accounts* only if the balance at the close of the preceding calendar year exceeded \$10,000.

SP, DC, JT	Creditor	Type of Liability	Amount of Liability						
			C \$15,001 - \$50,000	E \$100,001 - \$250,000	G \$500,001 - \$1,000,000	I \$5,000,001 - \$25,000,000	K Over \$50,000,000		
	<i>Example:</i> First Bank of Wilmington, Delaware	Mortgage on 123 Main St., Dover, Del.		X					
JT	Central National Bank	Mortgage on 3466 Legendary LV NV	X						
SP	BAC Home Loans	Mortgage 11932 Orense St		X					
JT	Pentagon Federal Credit Union	Mortgage on 150 D St SE DC							
JT	Pentagon Federal Credit Union	Mortgage on 208 D St SE DC			X				
SP	Wells Fargo Home Mortgage	Mortgage 11234 Revelry LV NV		X					

SCHEDULE VI — GIFTS

Report the source, a brief description, and the value of all gifts totaling more than \$260 received by you, your spouse, or a dependent child from any source during the year. Exclude: Gifts from relatives, gifts of personal hospitality of an individual, local meals, and gifts to a spouse or dependent child that are totally independent of his or her relationship to you. Gifts with a value of \$100 or less need not be added towards the \$260 disclosure threshold.

Note: The gift rule (House Rule 25, clause 5) prohibits acceptance of gifts except as specifically provided in the rule.

Source	Description	Value
<i>Example:</i> Mr. Joseph H. Smith, Anytown, Anystate	Silver Platter (determination on personal friendship received from Committee on Standards)	\$270
None		

Use additional sheets if more space is required.

SCHEDULE V — LIABILITIES

Name **Shelley Berkley**

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Report liabilities of over \$10,000 owed to any one creditor *at any time* during the reporting period by you, your spouse, or dependent child. Mark the highest amount owed during the year. Exclude: Any mortgage on your personal residence (unless it is rented out); loans secured by automobiles, household furniture, or appliances; and liabilities owed to a spouse, or the child, parent, or sibling of you or your spouse. Report *revolving charge accounts* only if the balance at the close of the preceding calendar year exceeded \$10,000.

SP, DC, JT	Creditor		Type of Liability	Amount of Liability					
				C \$15,001 – \$50,000	E \$100,001 – \$250,000	G \$500,001 – \$1,000,000	I \$5,000,001 – \$25,000,000	K Over \$50,000,000	
	Example:	First Bank of Wilmington, Delaware	Mortgage on 123 Main St., Dover, Del.		X				
SP	Wells Fargo Home Mortgage		Mortgage 11012 Meadow Leaf L		X				
SP	Wells Fargo Home Mortgage		Mortgage 546 Poplar Leaf LV N		X				
SP	CitiMortgage		Mortgage 11628 Aruba Beach L		X				
SP	Provident Funding		Mortgage 3964 Bella Palmero L		X				

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